

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

**MARC MATSUMOTO
25 Lone Oak Court
Napa, California 94558**

Plaintiff,
v.

**TANDOORI NIGHTS OF ALEXANDRIA,
LLC
218 North Lee Street, 2nd Floor
Alexandria, Virginia 22314**

CASE NO.:

Defendant.

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff, MARC MATSUMOTO, by and through his undersigned counsel, brings this Complaint against Defendant, TANDOORI NIGHTS OF ALEXANDRIA, LLC, for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MARC MATSUMOTO (“Matsumoto”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Matsumoto's original copyrighted Work of authorship.
2. Matsumoto is a recovering chef, food writer, author, and television host in Tokyo, Japan. He is the owner of the website No Recipes (<https://noredipes.com/>) where he shares his passion for cooking by guiding viewers through the fundamentals while sharing his secrets to empower others to elevate their everyday meals. Over the years, the website has evolved into a comprehensive resource for home cooks of all levels.

3. Defendant TANDOORI NIGHTS OF ALEXANDRIA, LLC (“TNA, LLC”) is a Nepalese and Indian Restaurant located in Old Town Alexandria, Virginia. At all times relevant herein, TNA, LLC owned and operated the internet website located at the URL <https://diyaindiancuisine.com/> (the “Website”).

4. Matsumoto alleges that Defendant copied his copyrighted Work from the internet in order to advertise, market and promote its business activities. TNA, LLC committed the violations alleged in connection with its business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Virginia.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, TNA, LLC engaged in infringement in this district, TNA, LLC resides in this district, and TNA, LLC is subject to personal jurisdiction in this district.

DEFENDANT

9. Tandoori Nights of Alexandria, LLC is a Virginia Limited Liability Company, with its principal place of business at 218 North Lee Street, 2nd Floor, Alexandria, VA, 22314, and can be served by serving its Registered Agent, Bimala Thapa Basnet, at 8004 Hammond Street, Alexandria, VA 22309.

10. Upon information and belief, TNA, LLC operates under the fictitious name Diya Indian Cuisine. These two entities are one and the same.

THE COPYRIGHTED WORK AT ISSUE

11. In 2017, Matsumoto created the photograph entitled “chicken-biryani_13,” which is shown below and referred to herein as the “Work”.



12. Matsumoto registered the Work with the Register of Copyrights on July 03, 2017, and was assigned registration number VA 2-056-663. The Certificate of Registration is attached hereto as **Exhibit 1**.

13. Matsumoto's Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets. The Work in perspective, orientation, positioning, lighting, and other details is entirely original, distinctive, and unique. As such, the Work qualifies as subject matter protectable under the Copyright Act.

14. At all relevant times Matsumoto was the owner of the copyrighted Work.

INFRINGEMENT BY TNA LLC

15. TNA, LLC has never been licensed to use the Work at issue in this action for any purpose.

16. On a date after the Work at issue in this action was created, but prior to the filing of this action, TNA, LLC copied the Work.

17. On or about March 15, 2022, Matsumoto discovered the unauthorized use of his Work on Yelp.com at the following URLs:

https://s3-media0.fl.yelpcdn.com/bphoto/W3_anovXfjRKgIkz4o-lkA/258s.jpg; and

https://fr.yelp.be/biz_photos/diya-indian-cuisine-alexandria

18. Yelp.com allows businesses to post content to promote their services. The terms and conditions page¹ clearly states that business owners are responsible for their own content.

19. TNA, LLC created its Yelp Business page and proceeded to use Matsumoto's Work as shown in **Exhibit 2**.

20. TNA, LLC copied Matsumoto's copyrighted Work without Matsumoto's permission or authority.

21. After TNA, LLC copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its restaurants business.

22. TNA, LLC copied and distributed Matsumoto's copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

23. TNA, LLC committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 3**.

24. Matsumoto never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

¹ https://terms.yelp.com/tos/en_us/20240222_en_us/

25. Matsumoto notified TNA, LLC of the allegations set forth herein on November 01, 2022, and November 21, 2022. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

26. Matsumoto incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Matsumoto owns a valid copyright in the Work at issue in this case.

28. Matsumoto registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

29. TNA, LLC copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Matsumoto's authorization in violation of 17 U.S.C. § 501.

30. TNA, LLC performed the acts alleged in the course and scope of its business activities.

31. Defendant's acts were willful.

32. Matsumoto has been damaged.

33. The harm caused to Matsumoto has been irreparable.

WHEREFORE, the Plaintiff MARC MATSUMOTO prays for judgment against the Defendant TANDOORI NIGHTS OF ALEXANDRIA, LLC that:

a. TNA, LLC and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. TNA, LLC be required to pay Matsumoto his actual damages and Defendant's profits attributable to the infringement, or, at Matsumoto's election, statutory damages, as provided in 17 U.S.C. § 504;

- c. Matsumoto be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Matsumoto be awarded pre- and post-judgment interest; and
- e. Matsumoto be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Matsumoto hereby demands a trial by jury of all issues so triable.

Dated: June 19, 2024

Respectfully submitted,

MARC MATSUMOTO

By Counsel

/s/ Bizhan Beiramee

Bizhan Beiramee, Esq. VSB 50918

BEIRAMEE LAW GROUP, P.C.

7508 Wisconsin Avenue

Second Floor

Bethesda, MD 20814

301 547.3805 - Telephone

703.483.9599 – Facsimile

bbeiramee@beiramee.com

Counsel for Plaintiff Marc Matsumoto